

## CHAPTER 3

### ENVIRONMENTAL REVIEW REQUIREMENTS

#### I. INTRODUCTION.

Every city and county receiving CDBG funds is legally responsible for complying with the environmental review regulations contained in the California Environmental Quality Act (CEQA) Guidelines, the National Environmental Policy Act (NEPA), and 24 CFR Part 58 of the Federal regulations. The executed grant agreement requires an environmental review be completed prior to the obligation, expenditure or drawdown of program funds. The environmental review, and applicable public notification, becomes part of a written environmental review record to be maintained by grantees. This record documents that CDBG-funded and related activities are in compliance with NEPA, and other applicable Federal laws, regulations, and executive orders. Although the CDBG staff does not monitor for compliance with CEQA, each grantee should also ensure that it has complied with CEQA requirements.

**Environmental review requirements apply to all CDBG funded activities including “10 percent set-aside” activities and projects funded with program income.**

This chapter of the manual outlines the steps grantees must take in order to comply with HUD Environmental Review Procedures under NEPA and other applicable Federal laws, regulations and executive orders. Sample forms, notices, worksheets, and website addresses for Federal regulation 24 CFR Part 58 and other laws and regulations are included. Grantees should read and become familiar with the Federal regulation 24 CFR Part 58 in addition to reading this chapter in order to become fully aware of their responsibilities under these environmental laws.

Common acronyms used in this chapter:

CEQA—California Environmental Quality Act  
CFR—Code of Federal Regulations  
EA—Environmental Assessment  
EIS—Environmental Impact Statement  
ERR—Environmental Review Record  
FONSI—Finding of No Significant Impact  
NEPA—National Environmental Policy Act  
MOU—Memorandum of Understanding  
NOIRROF—Notice of Intent to Request Release of Funds  
OHP – Office of Historic Preservation  
PA---Programmatic Agreement  
RER – Rehabilitation Environmental Review  
RROF—Request for Release of Funds  
SHPO—State Historic Preservation Officer

## II. GRANTEE RESPONSIBILITIES.

The Grantee must carry out and document completion of the prescribed procedures for the various laws listed above. Depending on the complexity of the project, these procedures can be time-consuming.

The environmental review must identify and address the physical, social, and economic impacts of the entire proposed activity. The environmental review process must consider the ultimate effect of a proposed project, including the potential effects of both the CDBG and related project activities. For example, if CDBG funds are being used to extend a water line to a site for a new residential development or manufacturing plant, then the ultimate effect of the project is not only the new water line, but also the new residential development or plant. Therefore, the environmental review must address the impacts of both the CDBG-funded water line as well as the development of the new residential units or plant. The scope of an environmental review encompasses this definition of a project.

Once an application for CDBG funding has been submitted to the State, neither CDBG nor non-CDBG funds may be committed to the proposed activity prior to receiving clearance from the State. In addition, neither the grantee nor any other party may carry out the activity or undertake a choice-limiting action prior to the grantee receiving clearance from the State. Practically, this means no construction contract may be let or work done on the site, whether publicly or privately funded, until the environmental review has been completed and cleared by the State.

Expenditures for activities that are exempt from NEPA per 58.34 (i.e., general administration, environmental review, planning, engineering and design work, etc.) may be incurred after the date of the award letter. The exempt activities must be documented as such in the environmental review record. Grantees must submit a letter to the State requesting approval to begin incurring such expenses. Upon receiving State approval, grantees may begin incurring expenditures for these exempt. ***However, grantees should be aware that they are proceeding at their own risk, and that CDBG expenditures will not be reimbursed until after the CDBG grant agreement has been executed.***

### Beginning the Environmental Review

The grantee's first objective in the environmental review process is to determine a "level of clearance" finding. The following narrative describes each of the clearance findings, the types of activities that fall under each level, and the appropriate environmental procedures for each level of clearance.

#### A. **Exempt from NEPA**

**NEPA requirements and related Federal laws and authorities under 58.5 are not applicable** to the project. However, **requirements under 58.6 are applicable** as they pertain to the Flood Disaster Protection Act, the Coastal Barrier Resources Act, and the Airport Runway Clear Zones and Clear Zones Disclosures.

Activities considered **Exempt** include the following:

- Environmental and planning *studies*.
- General *administrative* costs.
- *Payment of costs for eligible public services that will not have a physical impact or result in any physical changes*, including but not limited to services addressing employment,

crime prevention, child care, health, drug abuse, education, counseling, energy conservation and welfare or recreational needs;

- *Inspections and testing of properties for hazards and defects.*
- *Preliminary and final engineering and design costs* incurred for an eligible State CDBG program activity;
- *Technical assistance and training.*
- *Assistance for temporary or permanent improvements* that do not alter environmental conditions and are limited to protection, repair or restoration activities necessary *only to control or arrest the effects from disasters or imminent threats to public safety* including those resulting from physical deterioration;
- Activities that are Categorically Excluded and subject to 58.5, but have converted to Exempt.

## ENVIRONMENTAL PROCEDURES

Document the reasons for the finding and prepare a “*Finding of Exemption*”. Submit a copy of the finding to HCD for review and approval.

Keep in your files:

1. A completed **Form 58.6**.
2. A completed **Environmental Finding Form**, indicating “**Exempt**”
3. The HCD Environmental Clearance letter.

### **B. Categorically excluded from NEPA and not subject to 58.5 (58.35(b))**

**NEPA requirements and related Federal authorities under 58.5 are not applicable** to these projects. Again, **requirements under 58.6 are applicable** as they pertain to the Flood Disaster Protection Act, the Coastal Barrier Resources Act, and the Airport Runway Clear Zones and Clear Zones Disclosures.

Activities, which fall under this category, include the following:

- *Economic development activities*, including but not limited to, equipment purchase, inventory financing, interest subsidy, operating costs and similar costs *not associated with construction or expansion* of existing operations.
- *Payment* of CDBG eligible *operating costs*.
- *Payment* of CDBG eligible *supportive service costs*, including but not limited to, health care, housing services, permanent housing placement, day care, and nutritional services.
- *Activities to assist homebuyers* to purchase **existing dwelling units**, or **dwelling units under construction where the foundation is already in place at the time the buyer applies for**

assistance, including closing costs and down payment assistance, interest buydowns, and similar activities that result only in the transfer of title.

- *Affordable housing predevelopment costs.*
- *Payment of assessments for TIG households*, such as the upgrading of a water quality or a sewage treatment facility, where the project is not dependent on CDBG funding. In other words, the project would move forward with or without CDBG funding.

*If any additional activities are taking place*, such as rehabilitation or new construction, or if the project is associated with the expansion of existing operations, *the project does have to meet a higher environmental clearance level*, even if CDBG funds are not paying for the additional activities.

## ENVIRONMENTAL PROCEDURES

An activity determined to be categorically excluded and not subject to 58.5 must be documented as such and *does not convert to exempt*, but *remains excluded*. Prepare and keep in your files a copy of each of the following:

1. A completed **Form 58.6**
2. A completed **Environmental Finding Form** indicating “**Categorically Excluded, not subject to 58.5**”.
3. The HCD Environmental Clearance letter

Submit a copy of each form to the Department for review and approval.

### **C. Categorically Excluded from NEPA, but subject to 58.5 (58.35 (a))**

**NEPA requirements are not applicable**, however **the requirements of 24 CFR Part 58.5 are applicable** to projects in this category. For example, although the project is excluded from a full review under NEPA, it may be located in a floodplain and trigger a floodplain and wetlands assessment (see sample 8-Step Floodplain and Wetlands Assessment form in Section VI, Supporting Materials, of this chapter) or a project may involve rehabilitating homes or disturbing the ground and, therefore, be subject to historic preservation requirements.

**Requirements under 24 CFR Part 58.6 are also applicable** as they pertain to the Flood Disaster Protection Act, the Coastal Barrier Resources Act, and the Airport Runway Clear Zones and Clear Zones Disclosures.

- Activities, which fall under this category, include the following:
- *Payment of assessments for TIG households*, such as the upgrading of a water quality or a sewage treatment facility, when the project **is** dependent on CDBG funding, and *with a less than 20% increase in system capacity*,
- *The acquisition, reconstruction, rehabilitation, or installation of CDBG eligible public works and improvements* when the facilities and improvements are in place and will be retained in the same use *with less than a 20% change in size or capacity* (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving of streets).

- Special projects directed to the *removal of* material and architectural *barriers that restrict mobility of and accessibility* to elderly and handicapped persons.
- The rehabilitation of buildings and improvements when the following conditions are met:
  - For a residential building with one to four units:
    - The density is not increased beyond four units,
    - The land use is not changed,
    - The footprint of the building is not increased in a floodplain or in a wetland.
  - For multifamily residential buildings:
    - Unit density is not changed more than 20 percent;
    - There are no changes in land use from residential to non-residential; and
    - the estimated cost of rehabilitation is less than 75 percent of the total estimated cost of *replacement after rehabilitation*.
  - For non-residential structures:
    - The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and
    - the activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.
- An individual action on up to four dwelling units where there is a maximum of four units on any one site. The units can be four one-unit buildings or one four-unit building or any combination in between. (This does not apply to the rehabilitation of a building for residential use (with one to four units).)
- An individual action on a project of five or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four housing units on any one site.
- *Acquisition* of an existing structure provided that the structure acquired will be *retained for the same use*.
- Combinations of the above activities.

## ENVIRONMENTAL PROCEDURES

Grantees must document compliance with 58.5, either by completing a “***Statutory Worksheet***” ***on an individual project*** or a “***Rehabilitation Environmental Review***” (***RER***) form for rehabilitation of existing residential structures ***in a targeted area***. These forms contain a listing of all the applicable environmental provisions including a brief description of the procedures required for compliance and the appropriate Federal and /or State agency(s) that should be contacted regarding these procedures.

If you are administering a residential or commercial rehabilitation program, you must write to the State Historic Preservation Officer (SHPO) describing the program and how you will evaluate

each unit for historic or archaeological status. Keep your letter and SHPO's response in your environmental review file. SHPO consultation is required for any housing rehabilitation project that involves exterior work. This applies, even if the structure is less than 50 years old. A Programmatic Agreement (PA) may be negotiated, between the jurisdiction and the SHPO, to govern the implementation of a local housing rehabilitation program.

For a minor rehabilitation activity involving only a few houses that will convert from a finding of categorical exclusion to exempt, the ***Statutory Worksheet***, which identifies the structures by address, is the most logical choice as it can be completed without a noticing requirement.

Please note that the ***RER is for a tiered review*** in which all ***potential*** housing rehabilitation projects within the target area is the focus for the environmental clearance. ***Appendix A of the RER*** is then completed ***for each rehabilitation project*** within that target area ***as units are identified***. It cannot be used for activities involving changes of use, demolition, new construction, or for the rehabilitation of or acquisition of entire multi-family residential structures.

For a housing rehabilitation program where your target area could potentially include yet-to-be-identified activity sites that may have secondary findings under 24 CFR 58, complete the MRER and required noticing as described below, for the entire project area. Thereafter, the completion of Appendix A for each residential structure as it is identified will not require additional noticing unless there are unanticipated impacts at a higher level of clearance on an individual unit.

**If you choose to use the Statutory Worksheet and you have no secondary findings**, you may convert the project to exempt status pursuant to 24 CFR 58.34 (a)(12):

Prepare and keep in your files:

1. A *description* of the project
2. A completed ***Form 58.6***
3. A completed and documented ***Statutory Worksheet*** with primary findings only. (Please refer to the Supplemental Guide on Environmental Review Documentation, in Section VI of this chapter.)
4. A copy of *supporting documentation*, including ***the Programmatic Agreement and*** SHPO correspondence where applicable
5. A completed ***Environmental Finding Form***, indicating ***Categorically Excluded, per section 58.35(a)*** and *conversion to Exempt*.
6. The State Environmental Clearance letter.

Submit a copy of each form to the Department for review and approval.

**If you have any secondary findings on The Statutory Worksheet**  
***OR***  
**use the RER for rehabilitation:**

Prepare and keep in your files:

1. A *description* of the project

2. A completed **Form 58.6**
3. A completed and documented **RER** or **Statutory Worksheet identifying secondary findings**. (Please refer to the Supplemental Guide on Environmental Review Documentation, in Section VI of this chapter.)
4. A copy of *supporting documentation*, including **the Programmatic Agreement and SHPO** correspondence where applicable.
5. An **Environmental Finding Form** indicating a "**Finding of Categorical Exclusion**"
6. Documentation of **publication** of the **NOI/RROF** notice in a local newspaper of general circulation. If the notice is not published, then it must be prominently displayed in the local post office and in other public buildings as established by the citizen participation process. Provide for **7** calendar days after the date of publication of the notice for public comment or **10** calendar days if the notice was not published, but mailed and posted instead.
7. Comments received during the **7**-day comment period for newspaper publications or **10**-day period for mailed/posted notifications and responses.
8. A completed "**Request for Release of Funds and Certification**" Form

Submit a copy of the above forms (except for Appendix A) to the Department for review and approval. **The State will require an additional 15 days to receive any objections** prior to releasing an environmental clearance letter after receiving the Release of Funds and Certification Form. File all documents including the HCD environmental clearance letter in the public information file.

9. Site specific "**Appendix A**" Form for rehabilitation projects as each housing rehabilitation project is identified.

#### **D. Environmental Assessment (58.36)**

If your project is not found to be exempt or categorically excluded from NEPA, an Environmental Assessment (EA) will be required. This document is used to evaluate the environmental ramifications of proposed CDBG funded and related program activities. Depending upon the magnitude and complexity of the proposed project, the Environmental Assessment can lead to two types of clearances or findings. These include a Finding of No Significant Impact (FONSI) or a Notice of Intent to Prepare an Environmental Impact Statement (EIS), which is further described under section E., below.

Projects funded under the State CDBG Program rarely require an EIS since State CDBG activities usually do not constitute a "major Federal action" or they are a small part of a large project for which a full environmental review has already been completed. The preparation of an Environmental Assessment (EA), which leads to a FONSI, will be typical for projects that are not exempt or categorically excluded.

Activities, which fall under this category, include the following:

- The construction of a community facility such as a Child Care facility, a Homeless Shelter, or a Community Center.
- Public Works activities in which the size and capacity of the system or facility will be increased by more than 20 percent.
- Infrastructure activities in support of a new construction project.
- An individual action on a project of 5 or more units when the units are located within 2,000 feet of each other.

## ENVIRONMENTAL PROCEDURES

Prepare an EA in accordance with 24 CFR Part 58 Subpart E using the Environmental Assessment to include the grantee name and address, a description of the project and location map, a determination of existing conditions, identification of project impacts with data sources and explanation, a discussion of project alternatives, a discussion of any measures that will be implemented to mitigate project impacts, and a discussion of any irreversible project impacts. In addition, the other applicable laws and authorities, as previously discussed, must also be addressed and documented as part of the Environmental Assessment.

The Environmental Assessment will result in either **1) a Finding of No Significant Impact (FONSI) *or* 2) a finding of significant impact requiring preparation of an Environmental Impact Statement.**

**Finding of No Significant Impact (FONSI).** Most CDBG projects will result in a FONSI as they do not usually constitute major Federal actions or comprise part of a larger project that has already completed an environmental study. If you have a FONSI, you need to take the following steps and keep the following information in your environmental review record:

1. A full *description* of the project
2. A completed **Form 58.6**
3. A completed and documented **Environmental Assessment**
4. A copy of *supporting documentation*, including SHPO correspondence where applicable
5. An **Environmental Finding Form** , marked "**Environmental Assessment**"
6. Documentation, as described in Section 58.43, of the *dissemination* of a combined "**Notice of FONSI and Notice of Intent to Request Release of Funds**". In addition, copies of the FONSI should be sent to adjacent land owners, organizations, and to individuals and groups known to be interested in the activities, the appropriate State, federal and local agencies, the headquarters and appropriate regional office of the Environmental Protection Agency (EPA) and the Department. CEQA requires noticing through State and regional clearinghouses.
7. A copy of the aforementioned distribution list
8. A copy of the *published combined Notice of FONSI/NOIRROF* in a local newspaper of general circulation. Provide for **15** calendar days after the date of publication of the notice for public comment or **18** calendar days if the notice was not published, but mailed



and posted instead. If the notice is not published, then it must be prominently displayed in the local post office and in other public buildings as established by the citizen participation process.

9. Comments received during the **15-day** comment period for newspaper publications or **18-day** period for mailed/posted notifications and responses.

**10. A completed "*Request for Release of Funds and Certification*" Form**

Submit a copy of each form to the Department for review and approval. After receiving the Request for Release of Funds and Certification form, ***the State must allow an additional 15 days to accept any objections to its release of funds and the grantee's certification*** prior to releasing an environmental clearance letter. The 15-day period begins on the date that the Department receives the Request for Release of Funds or the date identified in the combined Notice, whichever is later. File all documents including the state environmental clearance letter in the public information file.

**Finding of Significant Impact.** If you determine that the CDBG project will have a potentially significant impact on the human environment, then an Environmental Impact Statement must be prepared.

**E. Environmental Impact Statement (58.37)**

If the Environmental Assessment results in a finding that an activity will have “potentially significant” impact on the human environment, the grantee must publish a notice of intent to prepare an Environmental Impact Statement (EIS). “Potentially significant” incorporates significant development, regional impact, long-term effects on the environment, violation of existing laws and authorities or highly controversial development where in each case procedural resolution is not feasible. 24 CFR Part 58.37 describes certain types of projects that require an EIS because of their size or nature.

For example, the construction, substantial rehabilitation, conversion or demolition of 2,500 housing units requires an EIS. A water or sewer project with the capacity to support 2,500 new units also requires an EIS. **Note:** If your project meets these thresholds or will result in other significant effects, consult with your CDBG representative regarding the preparation of an EIS.

**F. Activities Which Have Been Previously Approved Under 24 CFR Part 58**

Beginning 2003, the CDBG Program is not accepting Continuation Statements for programs. Grantees that have received environmental clearance for previously funded Housing Rehabilitation or Homebuyer Assistance Programs, must submit the appropriate environmental review documents for these programs, for each grant.

Beginning 2004, if supplemental HUD funds (CDBG, HOME, program income, etc.) are to be used on a project for which environmental clearance has been previously obtained, and the scope of the project has not changed since the original environmental review was completed, then the use of supplemental HUD funds is Exempt from NEPA. The grantee need only to submit the Finding Form and the Form 58.6. Additional noticing is not required.

**G. Consultation with the State Historic Preservation Officer (SHPO)**

American history, architecture, archeology, engineering and culture are embodied in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling and association and:

- that are associated with events that have made a significant contribution to the broad patterns of our history; or
- that are associated with the lives of persons significant in our past; or
- that display the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- that have yielded, or may be likely to yield, information important in prehistory or history

Grantees must consult with SHPO if there are potentially any historical properties (including archaeological and cultural resources) on the project site or if the project could have an effect on historical properties, including possible historic or archaeological properties not yet identified. Public involvement is a primary ingredient in successful Section 106 compliance. It is imperative that all affected parties be invited to comment early in the review process and that all historical information from interested sources be documented to determine the reasonable, good faith effort on the part of the Agency Official preparing the determination.

For rehabilitation activities, the grantee must evaluate whether the proposed activity will affect a property on or eligible for the National Register of Historic Buildings, and must consult with SHPO prior to making a finding regardless of whether the ~~Minor~~ Rehabilitation Environmental Review Forms or Statutory Worksheet are used. The California Historical Resources Information System (CHRIS) contact list (in section VI of this chapter) is a good place to begin researching. The website is [www.chris.ca.gov](http://www.chris.ca.gov).

***Please note that, in the absence of a Programmatic Agreement or Letter of Understanding between the grantee and the SHPO, for any housing rehabilitation project that involves exterior work, even if the structure is less than 50 years old, the grantee shall consult with SHPO in determining if there is an impact and in developing mitigation measures.***

The Advisory Council on Historic Preservation has formalized the review period. Requests for comment to the SHPO must receive a response within 30 days of receipt of the request. Requests for comment should be sent certified mail. If the SHPO fails to respond to an “adequately documented finding” within that review period, compliance with Section 106 is complete. ***An adequately documented finding is one for which the grantee has completed the research necessary to make a determination prior to formally consulting with the SHPO.*** If the information is inadequately documented, SHPO is allowed an additional 30 days to respond to a resubmittal. Grantees are strongly advised to carefully follow the documentation standards in 36 CFR Part 800.

Descriptions and photographs of structures to be affected by rehabilitation should be submitted to the SHPO for review as part of the environmental review procedures. Consultation with the SHPO can be made during preparation of the Statutory Worksheet or MRER, however each structure must be evaluated on a case-by-case basis. For a Revolving Loan Fund, each loan must be evaluated individually.

When an activity will have an affect on a property on, or eligible for, the National Register and

the agency and the SHPO disagree or require additional counsel, or if an identified consulting party requests the Council's participation, the Advisory Council on Historic Preservation must be given the opportunity to comment. The Advisory Council's regulations regarding protection of historic and cultural properties (36CFR Part 800) are *at [www.achp.gov/regs.html](http://www.achp.gov/regs.html)*. An additional 30-day review and comment period will apply.

Information on documentation of properties and use of the Criteria for Evaluation may be obtained by writing: National Register of Historic Places, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240 or accessing the Advisory Council on Historic Preservation at [www.achp.gov](http://www.achp.gov), which includes the Section 106 Users Guide.

## **H. Floodplain Management**

Executive Order 11988 is referenced in environmental regulation 24 CFR Part 58. It establishes Federal policy to assure that Federal Programs, including HUD, avoid adverse impacts to floodplains, reduce the risk of flood loss, minimize the impact of floods on human safety, health, and welfare, and to the extent possible, restore the natural beneficial values served by the floodplain. Only when it can be demonstrated that there is no practical alternative does it allow provision of direct or indirect Federal assistance for floodplain development or other actions that would adversely affect floodplain areas.

E.O. 11988 applies to acquisition, new construction, and most rehabilitation activities that are undertaken with any HUD assistance within special flood hazard areas designated as within the 100-year or 500-year floodplain by Federal Emergency Management Agency's Flood Hazard Boundary Maps and Flood Insurance Rate Maps. If your project is located in a floodplain or your program's target area contains a floodplain, you may be required to complete an 8-step Floodplain and Wetlands Assessment described in federal floodplain management regulations, 24 CFR Part 55. Please refer to the "8-Step Decision Process" in the Supporting Materials section of this chapter for guidance on whether the 8-Step Process is required for your project or program.

Compliance with the Flood Disaster Protection Act of 1973 as amended is also referenced in 24 CFR 58, Section 58.6. Expenditure of Federal funds, including mortgage insurance, is prohibited in special flood hazard areas if a community is not a participant of the National Flood Insurance Program. The Act requires that flood insurance must be purchased and maintained on those structures located within special flood hazard areas that receive Federal assistance for construction, reconstruction, or rehabilitation. Please refer to "Flood Insurance Requirements Guidance" in the Supporting Materials section of this chapter for guidance on whether flood insurance is required for your project.

In general, with a few exceptions, HUD assisted actions are approvable in a special flood hazard area only if the 8-Step decision record supports that there is no practicable alternative, the community is a participant in the National Flood Insurance Program and flood insurance is obtained as a condition of approval.

## **I. Coordination on Jointly Financed Water and Wastewater Activities**

The U.S. Dept. of Agriculture Rural Utilities Programs, the State Water Resources Control Board, the State Department of Water Resources, the California Dept. of Health Services, California Infrastructure and Economic Development Bank, California Technology, Trade and Commerce Agency, and the California Dept. of Housing and Community Development administer programs that provide financial assistance to small and rural communities for water

and wastewater activities. These agencies have prepared a Joint Memorandum of Understanding (MOU) to facilitate the coordination and cooperation among these organizations on jointly financed projects.

In an effort to facilitate the environmental review process for jointly financed activities, a CEQA/NEPA environmental review checklist is being updated for those projects that would require both an Environmental Impact Report under CEQA and an Environmental Assessment under NEPA. The website for locating the MOU and review checklist and a more complete discussion of what is required for clearance, can be accessed at:

<http://www.swrcb.ca.gov/cwphome/mss/cfccfr.htm>

## **J. Urgent Need**

An activity designed to alleviate an existing condition of particular urgency can perform a modified review. The condition must pose a serious and immediate threat to the health or welfare of the community, must have occurred or become urgent within the last 18 months, and the grantee must document that it has been unable to finance the activity because the community's other resources have been depleted by the emergency and other Federal programs are not sufficient to cover all the costs.

Records must include: 1) a description of the condition, documenting both the timing and the nature and degree of seriousness of the threat, 2) local certification that the CDBG activity was designed to address the urgent need, i.e. a resolution, 3) evidence that other financial resources are unavailable to alleviate the need.

Certain Categorically Excluded activities may be deemed Exempt in emergency situations under Section 58.34(a)(10). Specifically, this clearance level addresses "Assistance for temporary or permanent improvements *that do not alter environmental conditions* and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration". They will follow the recordkeeping requirements for exempt projects as outlined earlier in the chapter and for emergency projects as documented above.

For an activity that, under non-emergency circumstances, would typically require noticing, Section 58.33 applies. "If funds are needed on an emergency basis and when adherence to separate comment periods would prevent the giving of assistance, the combined Notice of FONSI and the NOI/RROF may be disseminated and/or published simultaneously with the submission of the RROF. The combined NOI/RROF shall state that the funds are needed on an immediate emergency basis due to a Presidentially declared disaster and that the comment periods have been combined. The Notice shall also invite commenters to submit their comments to both [HCD] and the responsible entity issuing the notice to assure that these comments will receive full consideration." In effect, the combined FONSI notice to the public and the state will require only 15 days total for comment. All other review and recordkeeping requirements remain the same.

However, if the activity will have a significant environmental impact, the grantee must immediately consult with the Department, which will in turn under consultation with HUD, make alternative arrangements.

## **III. COMMON PROBLEMS.**

- Project funds are obligated or expended prior to receiving environmental clearance from HCD.

- Project is not reviewed at the correct level of clearance.
- Public notices do not contain all required information, or dates for submitting comments/objections are incorrect, or notices have not been disseminated as required in 24 CFR Part 58.43.
- An Environmental Review Record was not established or lacked source documentation.
- Timing of public notices and/or Request for Release of Funds and Certification is incorrect.
- Grantee delays or fails to consult with the State Historic Preservation Officer.
- Someone other than the Certifying Officer signs forms requiring the Certifying Officer's signature.

#### IV. DEPARTMENT'S ROLE.

The Department is responsible for ensuring that grantees comply with the provisions of NEPA and the related Federal laws. To fulfill its responsibilities, the Department will consider any objection to the grantee's Request for Release of Funds (RROF) and Certification received within 15 days from the day the Department received the RROF. The Department can only deny the RROF based on the following reasons:

- The grantee's certifying officer did not execute the Request for Release of Funds and Certification.
- The grantee has failed to make a finding regarding significant impacts of the proposed activity or has failed to make a written determination as required by Part 58.
- The grantee has omitted one or more of the steps set forth for the preparation, publication, and completion of an Environmental Assessment or an Environmental Impact Statement, if one is required.
- ***The grantee or other participants in the development process have committed funds, incurred costs or undertaken activities not authorized by Part 58 before release of funds and approval of the environmental certification by the State.***

If the activity involves an effect on a property on, or eligible for, the National Register of Historic Places and the grantee has failed to give the Advisory Council on Historic effects the activity will have on this property, the Grantee will *not* have met its environmental clearance requirements as required in Part 58 noted above.

The Department's approval of the RROF and Certification satisfies the responsibilities of the Secretary of Housing and Urban Development under NEPA and the related provisions of Federal law (24 CFR Part 58.5) and once approved, funds will be released. The grantee's State CDBG representative will be responsible for processing the RROF and Certification and drafting each environmental clearance letter.

The Department will monitor the grantee's environmental review procedures to meet the following objectives:

1. To ascertain whether the grantee has complied with all of the procedures of 24 CFR Part 58, the related statutes, executive orders and regulations to determine their applicability to specific projects and that the Environmental Review Record includes written evidence of consultation with and determination by other agencies, as appropriate.
2. To ensure that the grantee has considered the environmental quality of the project and its surroundings in its decision-making and has adequately assessed the project's impacts on the environment and the environment's impact on the project.
3. To ensure that funds have not been expended or committed prematurely.

4. To provide assistance to the grantee in order to remedy any deficiencies in the grantee's environmental review compliance procedures.

By complying with Part 58, the grantee will have complied with the procedural aspects of NEPA, Historic Preservation and all of the related laws, regulations and executive orders as set forth in 24 CFR Part 58.5 and Part 58.6.

When the review of procedural compliance and environmental quality indicates deficiencies in the grantee's program, State CDBG staff will work with the grantee to remedy the problem and reduce or eliminate the incidence of such problems in the future. As a last resort, the Department may take formal corrective action as provided for in the State or Federal CDBG regulations.

## V. REFERENCES.

- NEPA: 40 CFR Parts 1500-1508  
24 CFR Part 58 (Environmental Review Procedures for  
Title I CDBG Programs)  
HCD Act of 1974, Section 104(h)
- Related Federal laws and authorities, 24 CFR Part 58.5:
  - (a) Historic Properties.
    - (1) The National Historic Preservation Act of 1966 as amended (16 U.S.C. 470 et seq.); particularly Section 106 and 110 (16 U.S.C. 470 and 470h-2).
    - (2) Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921); 3 CFR 1971-1975 Comp. p.559, particularly Section 2(c).
    - (3) The Reservoir Salvage Act of 1960 as amended by the Archeological and Historic Preservation Act of 1974 (16 U.S.C. 469 et seq.), particularly section 3 (16 U.S.C. 469a-1).
  - (b) Floodplain Management and Wetland Protection.
    - (1) Executive Order 11988, Floodplain Management, May 24, 1977 (42 FR 26951); 3 CFR, 1977 Comp., p. 117, as interpreted in HUD regulations at 24 CFR part 55, particularly section 2(a) of the order.
    - (2) Executive Order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961), 3 CFR, 1977 Comp., p.121, particularly Sections 2 and 5.
  - (c) Coastal Zone Management. The Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) as amended; particularly Section 307(c) and (d) (16 U.S.C. 1456(c) and (d)).
  - (d) Sole Source Aquifers.
    - (1) The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300(f) et seq., and 21 U.S.C. 349) as amended; particularly section 1424(e) (42 U.S.C. 300h-3(e)).

- (2) Sole Source Aquifers (Environmental Protection Agency - 40 CFR part 149).
- (e) Endangered Species. The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) as amended, particularly Section 7 (16 U.S.C. 1536).
- (f) Wild and Scenic Rivers. The Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.) as amended, particularly Section 7(b) and (c) (16 U.S.C. 1278(b) and (c)).
- (g) Air Quality.
  - (1) The Clean Air Act (42 U.S.C. 7401 et seq.) as amended; particularly Section 176(c) and (d) (42 U.S.C. 7506(c) and (d)).
  - (2) Determining Conformity of Federal Actions to State or Federal Implementation Plans (Environmental Protection Agency – 40 CFR parts 6, 51, and 93).
- (h) Farmlands protection.
  - (1) Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 et seq.) particularly sections 1540(b) and 1541 (7 U.S.C. 4201 (b) and 4202).
  - (2) Farmland Protection Policy (Department of Agriculture – 7 CFR part 658).
- (i) HUD Environmental Standards (24 CFR Part 51) (other than the runway clear zone and clear zone notification requirement in 24 CRE 51.303 (a)(3) and HUD Notice 79-33, Policy guidance to Address the Problems Posed by Toxic Chemicals and Radioactive Materials, September 10, 1979).
- (j) Environmental Justice. Executive Order 12898 – Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, February 11, 1994 (59 FR 7629), 3 CFR, 1994 Comp. p. 859.
- Other requirements, 24 CFR Part 58.6
  - (a) Flood Insurance. Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001-4128).
  - (b) Coastal Barrier Resources System. Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3501).
  - (c) Runway Clear Zone or Clear Zone 24 CFR part 51.

## **VI. SUPPORTING MATERIALS**

### **Tools and Resources**

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• Multi-Agency Review Checklist	<a href="http://www.swrcb.ca.gov/cwphome/mss/cfccfr.htm">http://www.swrcb.ca.gov/cwphome/mss/cfccfr.htm</a>
• <b><u>Laws and Regulations - websites</u></b>	
• HUD Environmental Review Procedures (24 CFR Part 58) <a href="http://www.hud.gov/offices/cpd/energyenviron/environment/lawsandregs/regs/index.cfm">www.hud.gov/offices/cpd/energyenviron/environment/lawsandregs/regs/index.cfm</a>	
• Advisory Council on Historic Preservation Regulations Protection of Historic Properties (36 CFR Part 800)	<a href="http://www.achp.gov/regs.html">www.achp.gov/regs.html</a>
• Implementing Regulations for Floodplain Management (24 CFR Pts. 50, 55, 58, and 200)	<a href="http://www.fema.gov/nfip/">www.fema.gov/nfip/</a>
• Office of Healthy Homes and Lead Hazard Control	<a href="http://www.hud.gov/offices/lead">http://www.hud.gov/offices/lead</a>

### **Environmental Flowchart**

**SEE EXCEL DOCUMENT IN THIS CHAPTER’S SUBDIRECTORY**



<b>Level of Clearance</b>	<b>Required Forms</b>
<b>Exempt (§ 58.34)</b>	<ol style="list-style-type: none"> <li>1. Form 58.6</li> <li>2. Environmental Finding Form</li> </ol>
<b>Categorically Excluded Not Subject to §58.5 (§58.35b)</b>	<ol style="list-style-type: none"> <li>1. Form 58.6</li> <li>2. Environmental Finding Form</li> </ol>
<b>Categorically Excluded Subject to §58.5 (§58.35a)</b>	<p><u><b>Statutory Worksheet With No Secondary Findings</b></u></p> <ol style="list-style-type: none"> <li>1. Form 58.6</li> <li>2. Environmental Finding Form</li> <li>3. Statutory Worksheet (project site)</li> </ol> <p><u><b>Statutory Worksheet with Secondary Findings</b></u></p> <ol style="list-style-type: none"> <li>1. Form 58.6</li> <li>2. Environmental Finding Form</li> <li>3. Statutory Worksheet (project site)</li> <li>4. Notice of Intent to Request Release of Funds (NOI/RROF) - 7-day public notice period (submit proof of publication)</li> <li>5. Request for Release of Funds and Certification (RROF and Cert.) -- 15-day objection period</li> </ol> <p><u><b>Tiered Review for Housing Rehabilitation Programs</b></u> To obtain environmental clearance for the program at the beginning of the grant, submit:</p> <ol style="list-style-type: none"> <li>1. Form 58.6</li> <li>2. Environmental Finding Form</li> <li>3. Rehabilitation Environmental Review (RER) Form</li> <li>4. NOIRROF – 7 day public notice period (submit proof of publication)</li> <li>5. RROF and Cert. – 15 day objection period.</li> </ol> <p>For each housing rehabilitation project: Appendix A of the MRER</p>
<b>Environmental Assessment (§58.36)</b>	<ol style="list-style-type: none"> <li>1. Form 58.6</li> <li>2. Environmental Assessment (EA)</li> <li>3. Combined Notice (FONSI and NOI/RROF)/ 15-day public notice period</li> <li>4. RROF and Certification/ 15-day objection period</li> </ol>
<b>Environmental Impact Statement Determination (§58.37)</b> (EIS)	<ol style="list-style-type: none"> <li>1. Notice of Intent to Prepare an EIS Draft and Final EIS</li> <li>2. Record of Decision</li> </ol>

## Environmental Documentation Chart

Rev. 8/04

## **Sample Publication, Public Comment, and Public Objection Schedules**

### **Notice of Intent to Request Release of Funds (NOI/RROF)**

#### Newspaper Publication

Published	July 1
Public Comments (7 calendar days)	July 2 to July 8
Public Objections submitted to HUD/HCD (15 calendar days)	July 9 to July 23

**OR**

#### Mailed or Posted

Mailed/Posted	July 1
Public Comments (10 calendar days)	July 2 to July 11
Public Objections submitted to HUD/HCD (15 calendar days)	July 12 to July 26

### **Combined Notice of Finding of No Significant Impact (FONSI)/Notice of Intent to Request Release of Funds (NOI/RROF)**

#### Newspaper Publication

Published	July 1
Public Comments (15 calendar days)	July 2 to July 16
Public Objections submitted to HUD/HCD (15 calendar days)	July 17 to July 31

**OR**

#### Mailed or Posted

Mailed/Posted	July 1
Public Comments (18 calendar days)	July 2 to July 19
Public Objections submitted to HUD/HCD (15 calendar days)	July 20 to August 3

# SUPPLEMENTAL GUIDE ON ENVIRONMENTAL REVIEW DOCUMENTATION

## COMPLIANCE DOCUMENTATION

The environmental review must contain written evidence of compliance with the federal laws and authorities listed in 24 CFR 58.5, 58.6 and with the National Environmental Policy Act, if applicable. Such documentation must be verifiable, contain relevant base data, and support the findings being made. Some customary forms of documentation are:

**1. FIELD OBSERVATION.** A site visit that does not usually involve any testing or measurements. Field observation is an important method for initial screening of the issues. However, for some environmental compliance issues it may be inadequate for final evaluation. The written record for field observation should include date of the site visit and by whom (name and title).

**2. PERSONAL CONTACT.** Personal contacts are useful when the individual contacted is an accepted authority on the subject(s) and the interview is documented. Supporting documentation should include the name and title of the person contacted and the date of the conversation.

**3. PRINTED MATERIALS.** These are useful sources of detailed information materials such as comprehensive land use plans, maps, statistical surveys, and studies. Information must be current, i.e. not so old that changing conditions make them irrelevant, and must represent accepted methodologies. Citations for the material should include enough information so that an outside reviewer can locate the specific reference.

**4. REVIEWER'S EXPERIENCE.** The professional judgment of the person making the review can be useful provided their expertise is relevant. The reviewer may have a previous knowledge from familiarity with the area, or may have professional background to make judgments about a specific factor. Provide information of the person's qualification in addition to name and position.

**5. SPECIAL STUDY.** This is a study conducted for an individual factor, and should be performed by a qualified person using accepted methodologies. Some tests are relatively simple to perform but others may require elaborate equipment or personnel with additional expertise. The reviewer is responsible for obtaining assistance from others in order to have the appropriate tests or studies conducted. A copy of the study must be appended in the environmental review record or referenced.

**6. CONSULTATION WITH OVERSIGHT AGENCIES.** Some regulations require specific consultation procedures to be completed with oversight agencies, such as for historic preservation, or endangered species when major construction activities are to occur. There must be evidence in the record that these procedures were completed.

## **GUIDANCE ON SCREENING FOR STATUTORY COMPLIANCE:** **LAWS AND AUTHORITIES LISTED AT 24 CFR 58.5**

These instructions are a brief description of the essential findings needed to establish a record of compliance. These instructions are not intended to replace the applicable regulations. Applicable regulations take precedence over these brief instructions. These instructions merely outline whether or not the project requires formal consultation, permits or agreements, or will have an effect on the resources protected by the relevant Federal law or authority. Responsible entities must officially record their findings for each of the federal laws and authorities in the Environmental Review Record (ERR), and support their findings with relevant base data and verifiable source documentation.

### **COMPLIANCE STEPS NOT INVOKED**

### **COMPLIANCE STEPS REQUIRED**

#### **Historic Properties:**

The RE and SHPO agree that there are No Historic Properties Affected per 36 CFR 800.4.

The RE and SHPO agree historic properties will be affected. Assess and resolve adverse effects according to §800.5 et seq.

#### **Floodplain Management:**

The project does not involve property acquisition, land management, construction or improvement within a 100 year floodplain (Zones A or V) identified by FEMA maps, **OR** does not involve a "critical action" (e.g., emergency facility, facility for mobility impaired persons, etc.) within a 500 year floodplain (Zone B). If these maps have not been published, the same finding is necessary and is to be based on data from the City/County Engineer or local Flood Control Agency.

Complete and implement the 8-step decision making process identified in 24 CFR 55. (Projects may be approved within the floodplain only if the responsible entity documents there is no practicable alternative.)

#### **Wetlands Protection:**

The project does not involve new construction within or adjacent to a wetland identified by or delineated on maps issued by the U.S. Department of Interior, Fish and Wildlife Service.

Complete and implement the 8-step decision making process identified in 24 CFR 55. (Projects may be approved only if there is no practicable alternative outside the wetland area. However, such activities require a Section 404 permit from the U.S. Corps of Engineers).

#### **Coastal Zone Management:**

The project does not involve the placement, erection or removal of materials, nor increase the intensity of use in the Coastal Zone.

Secure concurrence from the Coastal Zone Commission or delegated planning commission with your determination of consistency with the applicable Coastal Zone Plan.

#### **Sole Source Aquifers (Safe Drinking Water Act):**

The project is not located within an area designated by EPA as being supported by a sole source aquifer, **OR** the project need not be referred to EPA for evaluation according to the HUD-EPA (Region IX) Sole Source

Consult with the Water Management Division of EPA for the implementation of project mitigation measures to avoid contaminating the aquifer, and retain

**Endangered Species:**

The project is not likely to affect Federally-listed or proposed threatened and endangered species (i.e., plants, animals, fish, or invertebrates), nor designated or proposed critical habitat. This finding is to be based on contact made with the U.S. Fish and Wildlife Service, or special study completed by a professional biologist and/or botanist.

Initiate and complete consultation with the U.S. Fish and Wildlife Service, in accordance with 50 CFR Part 402.

**Wild and Scenic Rivers:**

The project is not located within one mile of a listed Wild and Scenic River, **OR** the project will not have an effect on the natural, free flowing or scenic qualities of a river in the National Wild and Scenic Rivers system.

Consult with the U.S. Department of Interior, National Park Service for resolution and mitigation assistance, OR reject the proposal.

**Air Quality:**

The project is located within an "attainment" area, **OR** if within a "non-attainment" area, the project conforms with the EPA-approved State Implementation Plan (SIP), per contact with the State Air Quality Management District or Board.

Negotiate suitable mitigation measures with the Air Quality Management District or Board.

**Farmland Protection:**

The project site does not include prime or unique farmland, **OR** other farmland of statewide or local importance as identified by the U.S. Department of Agriculture, Natural Resources Conservation Service (formerly the Soil Conservation Service), **OR** the project site includes prime farmland, but is located in an area committed to urban uses.

Request evaluation of land type from NRCS using Form AD 1006, and consider the resultant rating in the project decision, as well as potential mitigation measures (including measures to protect adverse effect on adjacent farmlands), OR reject.

**Noise Abatement and Control:**

The project does not involve development of noise sensitive uses, **OR** the project is not within line-of-sight of an arterial roadway or railroad, **OR** ambient noise level is 65 LDN (or CNEL) or less, based upon the HUD Noise Assessment Guidelines (NAG) study for calculating noise levels.

Apply the noise standard to the project approval decision and implement noise attenuation measures, as applicable, (NAG page 39-40) or reject the proposal.

**Explosive or Flammable Operations:**

The project is located at an Acceptable Separation Distance (ASD) from any above-ground explosive or flammable fuels or chemicals containers according to "Siting of HUD-Assisted Projects Near Hazardous Facilities" (Appendix F, pp. 51-52), **OR** the project will expose neither people nor buildings to such hazards.

Mitigate the hazard (per 24 CFR 51.205) with the construction of a barrier of adequate size and strength to protect the project from the explosive or flammable hazard OR reject the proposal.

**Toxic Chemicals and**

The project does not involve new development for habitation; **OR** the project involves new development for habitation, but is not located within one mile of an NPL("Superfund") site,

Responsible entities are advised not to use funds for activities supporting new development for habitation when a project

within ½ mile of a CERCLIS site, nor adjacent to any other known or suspected sites contaminated with toxic chemicals or radioactive materials, unless a Federal, State, or local authoritative source determines it does not pose a health hazard.

site is affected by toxic chemicals or radioactive materials. Mitigate the hazard until it poses no threat to health and safety, OR reject the proposal.

**Airport Clear Zones and Accident Potential Zones:**

The project is not within an FAA-designated civilian airport Runway Clear Zone (RCZ), or within a military airfield Clear Zone (CZ) or Accident Potential Zone (APZ), based upon information from the airport or military airfield administrator identifying the boundaries of such zones; **OR** the project involves only minor rehabilitation, **OR** the project involves only the sale or purchase of an existing property in a RCZ or CZ (**NOTE:** The responsible entity shall notify buyer of this fact and obtain buyer's signature acknowledging receipt of this information (24 CFR 58.6(c)).

It is HUD policy not to provide any development assistance, subsidy or insurance in RCZs or CZs unless the project will not be frequently used or occupied by people, and the airport operator provides written assurances that there are no plans to purchase the project site.

**Environmental Justice:**

The project site is suitable for its proposed use and the project won't be adversely affected by existing environmental conditions.

Site suitability is a concern; **OR** the project is adversely affected by the environment with respect to low income or minority populations. Avoid such impacts or mitigate them to the extent practicable, OR reject the proposal

## U.S. Department of Housing and Urban Development, San Francisco Regional Office

### ENVIRONMENTAL CONTACTS LIST 2004

**HUD CA Environmental Branch** Ernest Molins, Environmental Officer, U.S. HUD, 450 Golden Gate Ave., SF, CA, 94102  
www.ernest\_molins@hud.gov Tel. (415) 436-6564 FAX (415) 436-8208

**HUD Environmental website:** [www.hud.gov/offices/cpd/energyenviron/environment.html](http://www.hud.gov/offices/cpd/energyenviron/environment.html)

**Code of Federal Regulations** updated, integrated regulations: [www4.law.cornell.edu/cfr/24p58.html](http://www4.law.cornell.edu/cfr/24p58.html) or 24p50.htm

**Maps & Census data:** [www.nationalatlas.gov](http://www.nationalatlas.gov), [geodata.gov](http://geodata.gov).

**Advisory Council on Historic Preservation** Telephone (303) 969-5110, FAX (303) 969-5115, [www.achp.gov](http://www.achp.gov)

Don Klima, Director, Office of Planning and Review, 12136 West Bayaud Avenue, Suite 330, Lakewood, CO, 80228.

**Keeper of the National Register**, Tel. (202) 354-2065, FAX (202) 343-9522 [www.cr.nps.gov/nr/index.html](http://www.cr.nps.gov/nr/index.html)

USDI National Park Service, National Register History & Ed., 1849 C St., N.W. Rm. NC 400, Washington DC, 20240.

**NPS** Technical Brochures [www.cr.nps.gov/nr/publications/bulletins.htm](http://www.cr.nps.gov/nr/publications/bulletins.htm) Tel. (202) 343-9566

**Tribal List** by county: [www.cr.nps.gov/nagpra/NACD/INDEX.htm](http://www.cr.nps.gov/nagpra/NACD/INDEX.htm)

**US Army COE** Tribal Maps: [www.wes.army.mil/el/ccspt/natamap/USA\\_pg.html](http://www.wes.army.mil/el/ccspt/natamap/USA_pg.html)

### STATE HISTORIC PRESERVATION OFFICERS

Dr. Knox Mellon, **California** SHPO, Office of Historic Preservation, PO. Box 942896, Sacramento, CA 94296-0001

Tel. (916) 653-6624; FAX (916) 653-9824

Lucinda Woodward, historian; Tel. (916) 653-9116; CA Register Coordinator Tel. (916) 653-9432

California Historic Resources Information System (**CHRIS**): [www.ohp.parks.ca.gov/chris/iclist.html](http://www.ohp.parks.ca.gov/chris/iclist.html)

Ronald M. James, **Nevada** SHPO, Capitol Complex, 100 Stewart Street, Carson City, NV 89710

Alice Baldrice, Deputy SHPO, (775) 684-3444; Rebecca Palmer (archeology) (775) 684-3443

Rebecca Ossa (architectural historian) (775) 684-3441

JoAnn Miller, **Arizona** SHPO (archeologist), AZ State Parks Board, 1300 W. Washington St., Phoenix, AZ 85007

Tel. (602) 542-4174; Robert Frankenberger (historian)-(602) 542-6943

Gilbert Coloma-Agaran, **Hawaii** SHPO, 601 Kamokila Blvd., Rm. 555, Kapolei, HI 96707. Tel. (808) 692-8015

**U.S. Environmental Protection Agency (EPA):** 401 "M" St., SW, Washington, DC 20460

General Information- (202) 260-5075; **CEIS** - [www.epa.gov/ceis](http://www.epa.gov/ceis); Library: [www.epa.gov/natlibra/](http://www.epa.gov/natlibra/)

**Region IX** (AZ, CA, NV, and HI)- Wayne Nastri, Reg. Admin.- 75 Hawthorne St., San Francisco, CA 94105, (415) 947-3000

**Air & Toxics Division** : Unified Air Toxics Website: <http://www.epa.gov/ttn/uatw/>, [epa.gov/airnow](http://epa.gov/airnow). Tel. 415 947-8702

**Air Quality** Maps website: <http://www.epa.gov/region09/air/maps> or [epa.gov/oar/oaqps/greenbk/](http://epa.gov/oar/oaqps/greenbk/)

**Water Mgmt. Division:** Sole Source Aquifers - [www.epa.gov/safewater/ssanp/html](http://www.epa.gov/safewater/ssanp/html); Hillary Hecht -tel. (415) 972-3530

Underground Storage Tanks - <http://www.epa.gov/oust>;

Safe Drinking Water Hotline: Tel. (800) 426-4791; <http://www.epa.gov/safewater/dwinfo.htm>

**Hazardous Waste Mgmt. Division:**

Superfund Program, ROD's -[www.epa.gov/superfund](http://www.epa.gov/superfund). CERCLIS & TRI - [www.rtk.net](http://www.rtk.net), or [www.epa.gov/enviro](http://www.epa.gov/enviro)

Agency for Toxic Substances & Disease Registry (**ATSDR**): Tel. (888) 422-8737; [www.atsdr.cdc.gov](http://www.atsdr.cdc.gov)

**Environmental Justice:** [epa.gov/enviro/ej](http://epa.gov/enviro/ej). **EPA Permits assistance:** [cicacenter.org](http://cicacenter.org) (Constr. Ind. Asst. Ctr.)

**U.S. Fish and Wildlife Service (FWS)** [www.fws.gov](http://www.fws.gov)

**Region I** - 911 N.E. 11<sup>th</sup> Ave. Portland, OR 97232, <http://www.r1.fws.gov> (CA, HI, ID, NV, OR, WA, Pacific Islands)

**Region II** - P.O. Box 1306, Albuquerque, NM 87103, <http://ifw2irm2.irm1.r2.fws.gov/> (AZ, NM, OK, TX)

**Field Offices:**

**Northern California:** Wayne White, Field Sup. 2800 Cottage Way, Suite 2605, Sacramento, CA, 95825; Tel (916) 414-6610

**Southern California:** 6010 Hidden Valley Rd., Carlsbad, CA 92009; Tel. (760) 431-9440

**Nevada State Office:** 1340 Financial Blvd., Suite 234, Reno, NV 89502-7147 Tel. (775) 688-1500

**Ventura Field Office:** 2493 Portola Rd., Suite B, Ventura, CA 93003; Tel. (805) 644-1766

**California Department of Fish and Game:** 1416 Ninth St., Sacramento, CA, 95814, (916) 653-7664; [www.cfg.ca.gov](http://www.cfg.ca.gov)

**Wildlife & Habitat Data Analysis Branch:** Endangered Plants & Animals (916) 322-2493

Natural Diversity Data Base (**GIS**) (916) 322-2495 - Information Unit (916) 324-3812

**Federal Emergency Management Agency (FEMA), REGION IX** [www.fema.gov](http://www.fema.gov).

Jeff Griffin, Regional Director, 1111 Broadway, Suite 1200, Oakland, CA 94607; Tel. (510) 627-7100

**National Flood Insurance Program:** (716) 780-7889; [www.fema.gov/nfip.htm](http://www.fema.gov/nfip.htm)

**Wetlands:** [www.nwi.fws.gov/](http://www.nwi.fws.gov/) Regional Wetlands Coordinator / National Wetlands Inventory, Joan Hall, 911 N.E. 11<sup>th</sup> Ave., Portland, OR 97232; tel. (503) 231-6154, [www.epa.gov/ebtpages/ecosystems.html](http://www.epa.gov/ebtpages/ecosystems.html)

**USDA Natural Resources Conservation Service (NRCS):** Tel. (530) 934-4601, FAX (530) 934-8667

132 North Enright Ave., Suite B, Willows, CA 95988; [www.nrcs.usda.gov](http://www.nrcs.usda.gov)

**California Coastal Commission:** (415) 904-5200; [www.coastal.ca.gov](http://www.coastal.ca.gov)

North Coast Dist.- 45 Fremont St., Suite 2000, San Francisco, CA 94105, (415) 904-5260

So. Central Coast Dist.- 89 S. California St., Ste. 200, Ventura, CA, 93001, (805) 585-1800

South Coast Dist.- 725 Front St., Ste. 300, Santa Cruz, CA, 95060-4508, (831) 427-4863

San Diego Coast Dist. 3111 Camino del Rio North, Ste. 200, San Diego, CA, 92108, (619) 767-2370

**San Francisco Bay Conservation and Development Commission (BCDC)**

30 Van Ness Ave., Suite 2011, San Francisco, CA 94102, (415) 352-3600, [www.bcdc.ca.gov](http://www.bcdc.ca.gov)

**Energy Conservation Resources**

[www.hud.gov/offices/cpd/energyenvriron/energy/](http://www.hud.gov/offices/cpd/energyenvriron/energy/) or [www.huduser.org/publications/destech/energybook.html](http://www.huduser.org/publications/destech/energybook.html)

**Battelle Pacific NW Lab**, U.S. Dept. of Energy, [www.energycodes.gov](http://www.energycodes.gov), HELP Hotline (1)(800) 270-2633

**Pathnet** tel. (202) 708-4370; [www.pathnet.org](http://www.pathnet.org)

**California Energy Commission**, 1516 Ninth Street, Sacramento, CA 95814, (916) 654-4287

**California Traffic Data:** [www.dot.ca.gov/](http://www.dot.ca.gov/)

**Radon Information:**

**California:** State Radiological Health Branch, Dept. of Health Services, Sacramento, CA, (916) 324-2208 (Richard Blood)

**Nevada:** Stan Marshall, Radiological Health Section., Carson City, NV, (775) 687-5394, x-276

**Arizona:** John Stewart, Arizona Radiation Regulatory Agency, Phoenix, AZ, (602) 255-4845

**Hawaii:** Noise/Radiation/Indoor Air Quality Branch, Environmental Health Services Division, (808) 586-4700

**Toxic Sites and Hazardous Materials- [www.hud.gov/emaps](http://www.hud.gov/emaps)**

**CA Environmental Protection Agency (CAL EPA)**, 1001 "I" Street, Sacramento, CA, 95814. Tel. (916) 445-3846

**CA Dept. of Toxic Substances Control**, Waste Mgmt. Unit, Sacramento, CA, Tel. (916) 324-2423;

Hazardous Waste Property Determinations -(916) 255-3745 (Sandy Karinen)

**CA Water Resources Control Board**, RE: Underground Storage Tanks, (916) 341-5250

**Nevada Division of Environmental Protection**, 333 West Nye Lane, Rm. 138, Carson City, NV, 89706-0851, (775) 687-4670 (re: waste management, toxic sites, UST, corrective actions)

**Arizona Department of Environmental Quality**, Phoenix, AZ (602) 771-2300  
(waste management, toxic sites, UST, corrective actions)

**Hawaii Office of Hazard Evaluation & Emergency Response (HEER)**, (808) 586-4249

**American Society for Testing and Materials (ASTM)** Tel. (610) 832-9500, Fax (610) 832-9555

Standards for Phase I Environmental Site Assessment, <http://www.astm.org>

**EPA:** [www.epa.gov/enviromapper/](http://www.epa.gov/enviromapper/)

**Lead-based Paint:**

**HUD**, Office of Healthy Homes & Lead Hazard Control - Tel.(202) 755-1785; [www.hud.gov/offices/lead](http://www.hud.gov/offices/lead)

**U.S. EPA**, Region IX, Air & Toxics Division, Pesticides and Toxic Substances Branch, San Francisco, CA

<http://www.epa.gov/opptintr/lead> Roxanne Johnson (415) 947-4150

**National Lead Information Clearinghouse** (publications and information) Tel. (800) 424-LEAD;

<http://nsc.org/ehc/lead.htm>

**CAL EPA**, Dept. of Toxic Substances Control, (916) 255-3618; [www.dhs.ca.gov/childlead](http://www.dhs.ca.gov/childlead)

**CA Dept. of Health Services**, 1515 Clay St., Ste. 1801, Oakland, CA, 94612;

Certified Workers, Inspectors & Regulations- Tel. (1)(800) 597-LEAD; [www.leadlisting.org](http://www.leadlisting.org)

**Wild & Scenic Rivers - [www.nps.gov/rivers/](http://www.nps.gov/rivers/)**

**Coastal Barriers Resources:** Paul Souza (703) 358-2183; [www.fws.gov/cep/cbrtable.html](http://www.fws.gov/cep/cbrtable.html)

**Association of Bay Area Governments (ABAG)** [www.abag.ca.gov/bayarea/eqmaps/](http://www.abag.ca.gov/bayarea/eqmaps/)

**U.S.Geographic Survey (USGS)** maps: [www.terraser.com/homeadvisor.msn.com](http://www.terraser.com/homeadvisor.msn.com)

**Natural Hazards** [www.doi.gov/nathaz/index.html](http://www.doi.gov/nathaz/index.html)

**Intergovernmental Review of Federal Programs** (Executive Order 12372) for water or sewer projects

SINGLE POINTS OF CONTACT:

Grants Coordinator, **California State Clearinghouse**, P.O.Box 3044, Sacramento, CA 95812;

Tel. (916) 445-0613, Fax. (916) 323-3018 Heather Elliott

**State of Nevada**, Department of Administration, Budget & Planning Division,

209 East Musser Street, Room 200, Carson City, NV, 89701; Tel. (775) 684-0209, Fax. (775) 684-0260

**TO ORDER HUD documents, handbooks or forms- Tel. (1)(800) 767-7468 or (202) 708-3151, FAX no. (202) 708-2313**

HUD USER Information - (800) 245-2691 or <http://www.huduser.org>. Community Connections - [www.comcon.org](http://www.comcon.org)

GOVT. PRINTING OFFICE: [www.access.gpo.gov/su\\_docs](http://www.access.gpo.gov/su_docs)



**24 CFR Part 55 (FINAL RULE 4/21/94)**  
**as Applicable to Part 58 Programs**

**General Information**

- 1) Part 55 provides guidance for compliance with E.O. 11988 (Floodplain Management)
- 2) E.O. 11988 does not apply **IF** the project is not within a special flood hazard area, or if the Federal Emergency Management Agency (FEMA) has issued either a "Letter of Map Amendment" (LOMA) or a "Letter of Map Revision" (LOMR) for a project site located within a Special Flood Hazard Area [see 55.12(c) (8)]

**8-STEP DECISION PROCESS**

**Project:**

**Housing development and acquisition**

**Housing acquisition and/or rehab**

**Commercial rehab and development**

**Public facilities – rehabilitation and acquisition**

**An incidental portion of the project is within the floodplain**

**Required:**

1) acquisition, reconstruction, demolition, new construction

- 1) Acquisition
- 2) Rehabilitation, a.
  - a. 5 or more units, or
  - b. 1-4 dwelling units per site; cost is more than 50% of the value of the structure before rehab and increase in unit density is more than 20%

1) Any construction and landscaping activities that are located within the floodplain

- 1) Acquisition
- 2) Rehabilitation,
  - a. 5 or more units, or
  - b. 1-4 dwelling units per site; cost is more than 50% of the value of the structure before rehab and increase in unit density is more than 20%

1) Construction and landscaping activities will occupy or modify the floodplains

**Not Required:**

1) Minor amendment to a previously approved action with no additional adverse impact on or from a floodplain or wetland. [55.12 (c)(5)]

1) Minor repair or improvements, 1-4 dwelling units per site; cost is less than 50% of the value of the structure before rehab and increase in unit density is less than 20%. [55.12 (b)(2)]

2) An action for interim assistance or emergency activities to provide necessary protection and control risk or damage. [55.12 (c)(7)]

1) Any proposed construction landscaping activities not occurring in the floodplain [55.12 (c)(6)]

2) Minor amendment to a previously approved action with no additional adverse impact on or from a floodplain. [55.12 (c)(5)]

1) Minor repair or improvements: 1-4 dwelling units per site; cost is less than 50% of the value of the structure before rehab and increase in unit density is less than 20%. [55.12 (b)(2)]

2) An action for interim assistance or emergency activities to provide necessary protection and control risk or damage. [55.12 (c)(7)]

1) Construction and landscaping activities (i.e. minor grubbing, clearing of debris, pruning, sodding, seeding, etc.) will not occupy or modify the floodplain, provision is made for site drainage, AND a property covenant or restriction preserves the floodplain. [55.12 (c)(6)]

## Eight Step Planning Process for Floodplain/Wetland Management



**EO 11988: Floodplain Management**  
**EO 11990: Wetland Protection**  
(Note: See 44 CFR 9.6 for more detailed information.)

### STEP #1

Will the action be located in a wetland and/or the 100-year floodplain or will it have the potential to affect a wetland or floodplain?

- ▶ If no, you are finished
- ▶ If yes, continue to step #2

### STEP #2

A public notice must be published at the earliest possible time to provide information about the proposed project (1st Notice).

The notice must be disaster-wide & project specific

- ▶ Not applicable, you are done
- ▶ Applicable, move on to step #3

### STEP #3

Is there any reasonable alternative to locating the project in a floodplain or wetland?

- ▶ If yes, FEMA must locate the action at the alternative site
- ▶ If no, continue to step #4

### STEP #4

If the action must go in the wetlands or floodplain then the full range of impacts associated with the action must be identified.

- ▶ Not applicable, you are done
- ▶ Applicable, move on to step #5

### STEP #5

All potential adverse impacts must be avoided, minimized, or compensated for.

- ▶ Not applicable, you are done
- ▶ Applicable, move on to step #6

### STEP #6

Reevaluate the proposed action to determine if it is still practicable in light of its exposure to flood hazards, the extent to which it will aggravate the hazards of others, and its potential to disrupt floodplain and wetland values.

- ▶ Not applicable, you are done
- ▶ Applicable, move on to step #7

### STEP #7

If FEMA decides to take/fund an action that affects a floodplain or wetland, a 2nd public notice must be published (for a minimum of 15 days) to explain why affecting a floodplain or wetland is the only practicable alternative.

- ▶ Not applicable, you are done
- ▶ Applicable, move on to step #8

### STEP #8

Review the implementation and post-implementation phases of the proposed action to ensure that the requirements of the order are fully implemented. Oversight responsibility shall be integrated into existing processes.

- ▶ Not applicable, you are done
- ▶ Applicable, approval conditioned on review of implementation and post-implementation phases to insure compliance of the Executive Orders

# 8-STEP EXAMPLE

## (SITE SPECIFIC REVIEW)

Transitional Housing Program for Homeless Families with Children (Project No. CA39T91-1034)  
Decision Process for E.O. 11988

### **Step 1**

The project site is located within the A99 flood zone, as indicated on Flood Insurance Rate Map (FIRM) Panel no.060266-0025 E, dated November 15, 1989.

HUD proposed rule 24 CFR 55 (FR 865, January 4, 1990) states that 1-4 existing single family units are interpreted to be "categorically excluded" from E.O. 11988. However, this is a multifamily housing project, and therefore, an evaluation of direct or indirect impacts associated with occupancy or modification to the floodplain is required.

The proposed project, **Transitional Housing Program for Homeless Families with Children**, includes acquisition of three parcels of land, including substantial rehabilitation of the buildings at 3201 "W" Street and 3242 "V" Street, and construction of a building on the vacant parcel at 3200 "V" Street to provide offices, meeting rooms and classrooms in support of this Transitional Housing project. The residential units located at 3201 "W" and 3242 "V" Streets would provide 5 and 7 units, respectively, upon completion of their rehabilitation (pages 52 and 61 of amended application, 4/13/92).

The Lower American River system has not been a natural floodplain for many years. The system is controlled by a series of levees (constructed or reconstructed by Corps of Engineers between 1952 and 1958), and Folsom Reservoir (constructed in 1956). (American River Feasibility Study, 4/91, pg. 11-10; and the American River DEIS, 4/91, pg. 8-10). Therefore, no further impacts to the floodplain would result from this project. However, loss of life and damage to property is still a concern and will be the focus of this analysis.

### **Step 2 Early Public Review.**

A public notice concerning the project was published in the Sacramento Bee, the local and regional newspaper for the Sacramento Valley area, on April 29, 1992. The target group were persons residing in the greater Sacramento area, including the floodplain residents. Attached is a copy of the published public notification that appeared in the Sacramento Bee on April 29, 1992.

Mr. Jack Eldridge, Chief, National Technical Hazard Division, Federal Emergency Management Agency, Region IX, and Mr. Bill Nagel, Engineering City of Sacramento, CA were contacted in April 1992 regarding mitigation requirements for the A99 zone (specifically, local ordinances that must be implemented when structures are located within the 100-year floodplain).

### **Step 3 Alternatives Considered**

The Sacramento Housing and Redevelopment Agency's (SHRA) criteria for selecting a project site included:

- a) The project could not cause current residents to become displaced;
- b) The project must be within City limits in order for 1990 Tax Allocation Bond proceeds to be used by SHRA to meet the program requirements for matching local funds;
- c) The project could not exceed 30 units in size to be economically feasible and to facilitate community acceptance of the project.

### Alternative A - Locate the Project Within the Floodplain

When the November 15, 1989, Flood Insurance Rate Maps were issued by FEMA, a large percentage of both Sacramento County and the City of Sacramento was determined to be within the 100-year floodplain.

1. Locate the project at 3201 "W", 3200 "V" and 3242 "V" Streets which is within the A99 Zone.

The SHRA is using 1990 Tax Allocation Bond funds in conjunction with Community Development Block Grant funds to meet the Transitional Housing program requirement for matching local funds. The funds from the Tax Allocation Bond are to be used to benefit the "Merged Downtown Redevelopment Area". The SHRA was able to show good cause and that the project would benefit the Redevelopment Area so that bond proceeds may be used for the proposed project even though it lies outside the boundaries of the Redevelopment Area.

The proposed project site is within the influence of the American River system. As mentioned in Step 1, the American River has not been a natural river system for some time, and is not a typical floodplain. Control of the river waters is by levee systems and Folsom Reservoir. Together these controls have significantly modified the natural floodplain and replaced it with a managed system that extends to the Sacramento Delta. Therefore, further or substantial impacts to the floodplain will not occur as a result of the proposed construction and rehabilitation Transitional Housing project.

There is a chance that, by locating the project in a flood hazard area, a 100-year flood event may pose a threat to lives and property. The depth of the water at the proposed project site is estimated to be between 1 and 3 feet in height (U.S. Corps of Engineers maps, January 1989).

Only two of the 12 units available for housing are occupied. With the conversion and rehabilitation of the existing buildings, all 12 units will become occupied. However, the number of dwelling units will not be increased beyond what is currently available, and therefore, the number of people exposed to the flood hazard will not become magnified as a result of selecting this site.

2. Locate the project in the Del Paso Heights area

The City had considered another project site also located within the A99 zone in the Del Paso Heights area of the City at 402/404/406 Carroll Avenue. The proposal included acquiring a 12 unit apartment complex. However, this project was purchased under the State's Family Demonstration Rental Program just prior to HUD issuing its conditional approval to the City, and is no longer available as an alternative site.

### Alternative B - Locate the Project Outside the Floodplain

Two locations in Rancho Cordova, within Sacramento County, that are located outside the 100-year floodplain (A99 zone) were considered for the proposed housing project. However, these proposed locations do not meet several of the criteria established, including being within the City limits, not displacing residents, exceeding 30 units in size, and economic feasibility.

Both sites were determined to be too large in size. One site had over 50 units and the second site had 44 units (11 fourplex facilities). Hence, these alternative locations did not meet the criteria of less than 30 units in size.

In addition, the 50-unit structure is also known to have serious problems with pipes and plumbing contained within its cement slab foundation. The anticipated costs for making necessary repairs will exceed the project budget, therefore this alternative site is, again, considered economically unfeasible.

Ownership of the 44 unit complex is presently controlled by Resolution Trust Corporation because of a Savings and Loan failure. It was uncertain as to when this issue would be settled. Potential delays in resolution would hamper providing transitional housing immediately. Also, 60%-70% of the units are presently occupied. This would not meet the criteria of avoiding displacement of residents, and would increase the cost of the project as a result of relocating the current residents.

Furthermore, should either of these two sites be selected, the SHRA would not be able to show good cause and benefit to the Redevelopment Area and using the 1990 Tax Allocation Bond proceeds as part of the required matching funds would not be allowed.

#### Alternative C -No Action/Other Actions that Serve the Same Purpose

A no action alternative was considered, and rejected because of the results of a recent study by the Sacramento County Department of Social Services. This study produced evidence of a greater need for housing and public services for homeless families in the Sacramento area. It showed that the number of homeless families in Sacramento has increased by 25% over the past three years, and that there has been an increase in the number of families who repeatedly use shelters and other homeless services (i.e., more than one time annually). In addition, it showed there is a need for expanding the types of services required by homeless families in order to help them change their dysfunctional behavior as a household. The Sacramento Housing and Redevelopment Agency has stated in its application to HUD that, with the current facilities and services available, Sacramento is not equipped to help homeless families that are seeking assistance.

Currently, emergency shelters are being used to house homeless families. A no action alternative would mean that the City must rely upon these shelters alone. However, emergency shelters are not designed to meet the needs of homeless families with children. They are simply for overnight use and do not provide a stable home-like environment that is required for a family to function as a unit. Neither do these emergency facilities provide specialized services to ensure independent family living.

The proposed Transitional Housing project will provide both housing and appropriate supportive services for homeless families, with the goal of enabling them to move on to independent living within a 24 month period .

#### **Step 4 Potential Impacts of the Proposed Project**

Locating the project at 3201 "W", 3200 "V" and 3242 "V" Streets (within the 100-year floodplain) will not adversely affect the floodplain because the Lower American River is no longer natural and is currently controlled by a publicly and privately operated levees, as well as Folsom Reservoir (Draft Feasibility Report, American River Watershed Investigation, U.S Army Corps of Engineers, Sacramento District, April 1991 I Plate 2).

However, there is a potential hazard to residents of the proposed housing project and a potential for damage to property as a result of the project being located in the A-99 zone. Using the U.S. Corps of Engineers maps (dated January 1989), flood levels in this area appear to be between 1 and 3 feet in height.

Loss of human life as a result of levee failure is of greatest concern. In its Feasibility Study, the Corps estimates that the flood warning time required to safely evacuate people from the South Sacramento area (where the project is located) is between 7 and 9 hours. They further estimate that about 25 fatalities would occur during major flood event in the Sacramento area during a 100-year flood; and that *this* number would increase if the warning time was reduced or if evacuation routes became blocked (Public Health and Safety, page 111-18).

In previous discussions with Ray Lenaburg, Engineer, National Technical Hazards Division, Federal Emergency Management Agency (12/19/89) regarding what to expect from flood damage to structures, he stated that:

1-1.5 ft. flood level results in damage mostly to carpeting, curtains furnishing, etc.;

2 ft. flood level means a structure will sustain 20%-30% damage; and

3 ft. flood level a structure will sustain substantial damage (50% or more)

The City of Sacramento is a member of the National Flood Insurance Program and, therefore, any structure owned by the City (e.g., the Sacramento Housing and Redevelopment Agency) that is located within the A99 flood zone must be covered by flood insurance. Insurance will be purchased and maintained by the Finance Department for the Sacramento Housing and Redevelopment Agency.

#### **Step 5 Opportunities to Minimize, Restore, Preserve the Values of the Floodplain**

This project will not alter the floodplain beyond what has already occurred from the construction of levees and Folsom Reservoir to control the floodwaters of the Lower American River.

The entire project site is located within the A-99 zone, so there is no practical method available to redesign the project in order to reduce the potential flood danger to families occupying the housing project. Nor, are there cost effective methods for elevating any of the structure above the floodplain. To elevate the existing buildings above the floodplain would mean removing them from their foundations and filling the project site with dirt up to 3 feet in height. The surrounding neighborhood would still be inundated by water; and, since the entire project site would then be higher than surrounding terrain, any off site drainage from the Transitional Housing project would need to be carefully controlled so as not to flood adjacent properties, even during light rainstorms.

Families served by this Transitional Housing project can occupy the residential units for up to two years. When housing clients are being accepted into the Transitional Housing program, and the general program rules are being explained, the prospective project residents must be notified by the Sacramento Housing and Redevelopment Agency (SHRA) that they are residing in a flood hazard area (per 24 CFR 55.21).

To minimize the potential danger to lives, the SHRA must also inform all residents, and any new residents moving into the project, that emergency information and area evacuation procedures during a flood event will be provided to the community by radio and television through the City's Emergency Broadcast System (Personal Communication with Christine Olsen, Public Information Office, City Manager's Office, (916) 264-5704, 6/2/92). In addition, local City Fire Department stations have been designated as Neighborhood Information Assistance Centers, and residents who do not own radios or televisions may get information on current flood warnings and evacuation information from those centers (Per. Comm. with Christine Olsen, 6/2/92). The nearest station to the proposed project site is Fire Station #4, at 3145 Granada Way in Sacramento (approximately 1 mile away). (Personal Communication with Joe Landren, Receptionist, City Fire Department, (916) 264-5266, 6/2/92). Fire Station #4 is just off of Alhambra Blvd., so residents could take the City bus to that location.

To further minimize the potential danger to lives, the SHRA should formulate a plan as to how it will ensure residents are evacuated in a timely manner.

To mitigate possible flood damage to the project, the SHRA will be required to purchase and maintain flood insurance on all buildings. Floodproofing will not be required for existing structures because it would not be practical or economically feasible. Economically, floodproofing is unfeasible because the lowest floor of the buildings would need to be raised to at or above the base flood elevation (i.e. minimum 1 foot and maximum 3 feet), which would make the cost of rehabilitating the structures prohibitive. Nor would it be practical to construct a flood wall surrounding the project because onsite and off site drainage would become an engineering problem.

One design modification has been made to the building being constructed at 3200 "V". Street. The specifications for that building will provide for breakaway walls on the first floor level to mitigate potential damage to the structure that may result from fast flowing floodwaters (Personal Communication with Mabel Furr, Project Manager, Sacramento Housing and Redevelopment Agency. (916) 440-1327, 6/2/92).

#### **Step 6: Reevaluation of Alternatives**

Although the proposed project site in Alternative A.1. is located within the 100-year floodplain, the Lower American River has not been a natural riverine system since 1958, and the project will not impact or alter the floodplain beyond what has already occurred as a result of construction of levees and the Folsom

Reservoir that control the floodwaters of the river.

The threat of flooding to life and property as result of locating the project in the floodplain is still a concern. However, it is HUD's belief the City has adequate emergency systems in place to give residents enough warning time to evacuate the project if there is danger of a levee breach or major flooding; and, that the purchase of flood insurance by the SHRA reasonably mitigates potential damage to property that may result from flooding.

Neither of the sites discussed in Alternative B are located within the floodplain. However, neither site effectively meets the criteria of the proposed project, including being within the City limits, not displacing residents, or exceeding the economic limits and size limits for a manageable and viable project.

Neither is Alternative C a viable alternative because it will not help alleviate the identified need to provide assistance to the City's homeless families with children, and to help them to turn their living situation around.

#### **Step 7: Determination of No Practicable Alternative**

It is our determination that there is no practicable alternative to locating the project in the A-99 flood zone because: 1) the need for housing and for providing services to homeless families with children in the City of Sacramento must be met, 2) the number of dwelling units will not be increased beyond what is currently available, so additional persons will not be exposed to the flood hazard, 3) the project is economically feasible, and 4) no further impacts to the floodplain will occur as a result of the rehabilitation of the residential buildings, nor from construction of the office and services building.

#### **Step 8: Implement the Proposed Action**



# **EXAMPLE OF 1ST FLOOD NOTICE (STEP 2)**

## **NOTICE OF PROPOSED IMPROVEMENTS AND DEVELOPMENT IN A FLOODPLAIN**

The U.S. Department of Housing and Urban Development (HUD) has conditionally approved a grant for the Sacramento Housing and Redevelopment Agency under the Transitional Housing Program authorized by the Supportive Housing Demonstration in Title IV of the Stewart B. McKinney Act. The grant is for a project that encompasses three parcels within the City of Sacramento, CA, at 3201 "W" Street, 2231 "V" Street, and 3242 "V" Street. All parcels (roughly 0.6 acres total) are located within the A99 flood zone identified on the Federal Insurance Rate Map, No.060266-0025 E

The project includes the acquisition and rehabilitation of buildings at 3201 "W" and 3242 "V" Streets to provide 19 units of housing for homeless families with children, and construction of a building at 2231 "V" Street for offices and an indoor activity center.

HUD has additional information on this project, and is preparing a review to determine if there are any practicable alternatives to locating the project in the floodplain, and to identify potential adverse impacts that may result from this project, as well as mitigation measures that may be necessary to protect the floodplain.

Written comments regarding this issue should be received within 15 days of publication of this notice in order to be considered by HUD in its decision process. Comments should be sent to Mr. Dale James, Regional Environmental Officer, U.S. Department of Housing and Urban Development, 450 Golden Gate Ave., P.O. Box 36003-9CE, San Francisco, CA 94102.

Gordon H. McKay, Director  
Office of Community Planning and Development  
U.S. Dept. of Housing and Urban Development

# **EXAMPLE OF 2ND FLOOD NOTICE (STEP 7)**

## **NOTICE OF APPROVAL OF A PROJECT LOCATED IN A FLOODPLAIN**

A notice appeared in this newspaper April 29, 1992, inviting comments regarding a project being proposed by the Sacramento Housing and Redevelopment Agency (SHRA) that will use Transitional Housing grant funds from the U.S. Department of Housing and Urban Development (HUD) to provide 12 units of housing for homeless families with children, an indoor activity center, and office space. The project site includes three parcels within the City of Sacramento, CA, at 3201 "W" Street, 2231 "V" Street, and 3242 "V" Street.

HUD completed an evaluation concerning potential impacts on the floodplain and possible alternative actions. The conclusion was there is no practicable alternative to locating the project in the A-99 flood zone. No other sites or actions were available that would meet the needs of homeless families, would not cause other residents to be displaced, was within City limits to qualify for 1990 Tax Allocation proceeds, and would be economically feasible.

Alternatives considered included parcels outside the A-99 flood zone, no action, and other actions that serve the same purpose

Accordingly, HUD will approve this project subject to compliance by SHRA with the National Flood Insurance Program, and their notifying residents about being located in a floodplain and of the City emergency alert systems. This infill project will not adversely impact the floodplain. Written comments regarding HUD's determination should be received within 7 days of publication of this notice. Comments should be sent to Dale James, U.S. Dept. of Housing and Urban Development, 450 Golden Gate Ave., P.O. Box 36003-9CE, San Francisco, CA 94102.

Gordon H. McKay, Director  
Office of Community Planning and Development  
U.S. Dept. of Housing and Urban Development



May 2001

## **FLOOD INSURANCE REQUIREMENTS GUIDANCE** (24 CFR 58.6)

The Flood Disaster Protection Act, Section 202(a), prohibits federal financial assistance for buildings located in Special Flood Hazard Areas (SFHA's) within communities not participating in the National Flood Insurance Program.

Section 102(a) mandates the purchase of flood insurance for buildings located in SFHA's, as a condition of approval for federal financial assistance. Flood insurance protection is mandatory for acquisition, construction, reconstruction, repair and improvement activities. Flood insurance is not required for routine maintenance or for "small loans". Small loans are those with an original outstanding principal balance of \$5,000 or less, and with repayment terms of 1 year or less. Formula grant allocations to States are also not subject to the mandatory, statutory flood insurance requirements.

### **RESPONSIBLE ENTITY RESPONSIBILITIES**

Responsible entities with projects located in SFHA's must ensure that flood insurance is maintained for the statutorily-prescribed period and dollar amount of flood insurance coverage.

#### Duration of Flood Insurance Coverage

Flood insurance must be maintained for the life of the building. For loans, flood insurance must be maintained for the term of the loan.

#### Proof of Purchase

The standard documentation for compliance is the Policy Declaration form issued by the National Flood Insurance Program or issued by any property insurance company offering coverage under the NFIP. Any financially-assisted SFHA building lacking a current Policy Declaration form is in non-compliance.

#### Dollar Amount of Flood Insurance Coverage

The amount of flood insurance coverage must be at least equal to the total project cost (less estimated land cost) or to the maximum limit of coverage made available by the Act with respect to the particular type of building involved, whichever is less. The project cost is defined as the total cost for acquiring, constructing reconstructing, repairing, or improving the building. This cost covers both the federal and matching funds, including those used for fixtures and furnishings as part of the project.

### **FLOOD INSURANCE is recommended but not required for ROUTINE MAINTENANCE ACTIVITIES**

"Routine maintenance" activities within SFHA's fall below the threshold of building repair or improvement, the statutory terms used in Section 3(a)(4) of the FDPA.

Routine maintenance activities merely keep a building in good operating condition; they do not add to the value of the building, appreciably prolong its useful life or adapt it to new uses. Examples: painting exterior or interior, fixing gutters or floors, mending leaks or plastering, replacing thermostats, broken window panes or door locks.

In contrast, these activities are considered repairs: adding a room, putting in new plumbing, replacing the electrical wiring system or air conditioning system, installing a new roof, replacing a boiler (other major equipment), any comprehensive remodeling or fix-up.

Routine maintenance activities also do not trigger the Eight Step Decision Making Process at §55.20.

Audrey E. Scott,  
General Deputy Assistant Secretary for CPD,  
May 5, 1989

# **U.S. ENVIRONMENTAL PROTECTION AGENCY DESIGNATION OF SOLE SOURCE AQUIFERS**

## **FACT SHEET**

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### **What is a Sole Source Aquifer?**

A Sole Source Aquifer (SSA) is an aquifer designated by EPA as the "sole or principal source" of drinking water for a given service area; that is, an aquifer which is needed to supply 50% or more of the drinking water for that area and for which there are no reasonably available alternative sources should the aquifer become contaminated.

### **What are the benefits of designation as a Sole Source Aquifer?**

Proposed Federal financially-assisted projects which have the potential to contaminate the SSA area will be subject to EPA review. This review could either prevent a commitment of Federal funding or cause a redesign of the project. Designation has no effect on proposed projects which do not receive Federal financial assistance such as projects funded by State, local or private concerns.

### **Who may apply for Sole Source Aquifer designation?**

Any person may apply for SSA designation. A "person" is any individual, corporation, company, association, partnership, State, municipality or Federal agency. The petition should be submitted to the EPA Regional Administrator.

### **What should be included in the Sole Source Aquifer petition?**

The petition should include sufficient technical information to allow EPA to determine whether the aquifer is the sole or principal source of drinking water and to substantiate the boundaries of the aquifer and its recharge area. The petitioner is responsible for providing the hydrogeological and other information needed for designation. The information which must be submitted in the petition is described in the [Sole Source Aquifer Designation Petitioner Guidance](#) available from the Regional Office.

### **What are the steps in processing a Sole Source Aquifer designation petition?**

There are four phases in making a designation decision:

- Petition Preparation (Petitioner)
- Initial Review/Completeness Determination (EPA)
- Detailed Review/Technical Verification (EPA)
- Designation Determination (EPA)

### **How long does the designation decision process take?**

The designation process generally takes a minimum of six months from the time the petitioner submits a complete petition to the time EPA makes a determination. The process may take longer, depending on the complexity of the petition.

**Map of Designated Sole Source Aquifers – Region IX.**

**SEE PDF FILE IN CHAPTER’S SUBDIRECTORY FOR MAP**

## CONTACT LIST FOR CAL. HISTORIC RESSOURCES INFORMATION SYSTEM

*The following institutions are under agreement with the Office of Historic Preservation to:*

1. Integrate information on new Resources and known Resources into the California Historical Resources Information System.
2. Supply information on resources and surveys to government, institutions, and individuals who have a need to know.
3. Supply a list of consultants qualified to do historic preservation fieldwork within their area.

**COORDINATORS: Mr. John Thomas, Historian II, (916) 653-9125      Mr. Eric Allison, IT Specialist II, (916) 653-7278**

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(9/16/04)

# Section 106 Regulations Flow Chart

## Initiate Section 106 Process

Establish undertaking  
Identify appropriate SHPO/THPO \*  
Plan to involve the public  
Identify other consulting parties

► No undertaking/no potential to cause effects

▼  
Undertaking is type that might affect historic properties  
▼

## Identify Historic Properties

Determine scope of efforts  
Identify historic properties  
Evaluate historic significance

► No historic properties affected

▼  
Historic properties are affected  
▼

## Assess Adverse Effects

Apply criteria of adverse effect

► No historic properties adversely affected

▼  
Historic properties are adversely affected  
▼

## Resolve Adverse Effects

Continue consultation

► Memorandum of Agreement

▼  
FAILURE TO AGREE

► COUNCIL COMMENT

# THE REVISED SECTION 106 PROCESS : A SUMMARY

## Introduction

Section 106 of the [National Historic Preservation Act of 1966 \(NHPA\)](#) requires Federal agencies to take into account the effects of their undertakings on historic properties, and afford the [Advisory Council on Historic Preservation](#) a reasonable opportunity to comment. The historic preservation review process mandated by Section 106 is outlined in regulations issued by the Council. Revised regulations, "[Protection of Historic Properties](#)" (36 CFR Part 800), became effective January 11, 2001, and are summarized below.

## Initiate Section 106 process

The responsible Federal agency first determines whether it has an undertaking that is a type of activity that could affect historic properties. Historic properties are properties that are included in the [National Register of Historic Places](#) or that meet the [criteria for the National Register](#). If so, it must identify the appropriate [State Historic Preservation Officer/Tribal Historic Preservation Officer](#) \* (SHPO/THPO\*) to consult with during the process. It should also plan to involve the public, and identify other potential consulting parties. If it determines that it has no undertaking, or that its undertaking is a type of activity that has no potential to affect historic properties, the agency has no further Section 106 obligations.

## Identify historic properties

If the agency's undertaking could affect historic properties, the agency determines the scope of appropriate identification efforts and then proceeds to identify historic properties in the area of potential effects. The agency reviews background information, consults with the SHPO/THPO\* and others, seeks information from knowledgeable parties, and conducts additional studies as necessary. Districts, sites, buildings, structures, and objects listed in the National Register are considered; unlisted properties are evaluated against the National Park Service's published [criteria](#), in consultation with the SHPO/THPO\* and any Indian tribe or Native Hawaiian organization that may attach religious or cultural importance to them.

If questions arise about the eligibility of a given property, the agency may seek a formal determination of eligibility from the [National Park Service](#). Section 106

review gives equal consideration to properties that have already been included in the National Register as well as those that have not been so included, but that meet National Register criteria.

If the agency finds that no historic properties are present or affected, it provides documentation to the SHPO/THPO\* and, barring any objection in 30 days, proceeds with its undertaking.

If the agency finds that historic properties are present, it proceeds to assess possible adverse effects.

## Assess adverse effects

The agency, in consultation with the SHPO/THPO\*, makes an assessment of adverse effects on the identified historic properties based on criteria found in the Council's regulations.

If they agree that there will be **no adverse effect**, the agency proceeds with the undertaking and any agreed-upon conditions.

If a) they find that there is an **adverse effect**, or if the parties cannot agree and the Council determines within 15 days that there is an adverse effect, the agency begins consultation to seek ways to avoid, minimize, or mitigate the adverse effects.

## Resolve adverse effects

The agency consults to resolve adverse effects with the SHPO/THPO\* and others, who may include Indian tribes and Native Hawaiian organizations, local governments, permit or license applicants, and members of the public. The Council may participate in consultation when there are substantial impacts to important historic properties, when a case presents important questions of policy or interpretation, when there is a potential for procedural problems, or when there are issues of concern to Indian tribes or Native Hawaiian organizations.

Consultation usually results in a Memorandum of Agreement (MOA), which outlines agreed-upon measures that the agency will take to avoid, minimize, or mitigate the adverse effects. In some cases, the consulting parties may agree that no such measures are possible, but that the adverse effects must be accepted in the public interest.

If an MOA is executed, the agency proceeds with its undertaking under the terms of the MOA.

## Failure to resolve adverse effects

If consultation proves unproductive, the agency or the SHPO/THPO\*, or the Council itself, may terminate consultation. If a SHPO terminates consultation, the agency and the Council may conce an MOA without SHPO involvement. However, if a THPO\* terminates consultation and the undertaking is on or affecting historic properties on tribal lands, the Council must provide its comments. The agency must submit appropriate documentation to the Council and request the Council's written comments. The agency head must take into account the Council's written comments in deciding how to proceed.

## Tribes, Native Hawaiians, and the public

Public involvement is a key ingredient in successful Section 106 consultation, and the views of the public should be solicited and considered throughout the process.

The regulations also place major emphasis on consultation with Indian tribes and Native Hawaiian organizations, in keeping with the 1992 amendments to NHPA. Consultation with an Indian tribe must respect tribal sovereignty and the government-to-government relationship between the Federal Government and Indian tribes. Even if an Indian tribe has not been certified by NPS to have a [Tribal Historic Preservation Officer](#) who can act for the SHPO on its lands, it must be consulted about undertakings on or affecting its lands on the same basis and in addition to the SHPO.

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**\* The regulations define the term "THPO" as those tribes that have assumed SHPO responsibilities on their tribal lands and have been certified pursuant to Section 101(d)(2) of the NHPA. Nevertheless, remember that tribes that have not been so certified have the same consultation and concurrence rights as THPOs when the undertaking takes place, or affects historic properties, on their tribal lands. The practical difference is that during such undertakings, THPOs would be consulted in lieu of the SHPO, while non-certified tribe would be consulted in addition to the SHPO s.**

## Implementation



## Multi-Agency Review Process Flow Chart

**SEE ADOBE/EXCEL FILE IN CHAPTER'S SUBDIRECTORY**